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8 Attorneys for Defendant  
9 Carma Laboratories, Inc.

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12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**  
14

15 MICHAEL TURCIOS, on behalf of  
16 himself and all others similarly situated,

17 Plaintiff,

18 vs.

19 CARMA LABORATORIES, INC., a  
20 Wisconsin corporation,

21 Defendant.  
22

Case No. CV12-8487- JGB(Ex)

**[PROPOSED] ORDER  
GRANTING CARMA  
LABORATORIES' MOTION FOR  
RULE 11 SANCTIONS**

23 Defendant Carma Laboratories, Inc.'s ("Carma Labs") Motion for Rule 11  
24 Sanctions came before the Court, the Honorable Jesus G. Bernal presiding. The Court  
25 having considered the parties' papers, relevant legal authority, and the record in this  
26 case, hereby finds as follows:  
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1 Plaintiff, Michael Turcios' counsel, Ridout Lyon + Ottoson LLP ("RLO"),  
2 violated Fed. R. Civ. P. 11 by certifying legal and factual contentions in the  
3 Complaint and Amended Complaint without evidentiary support, and for filing those  
4 pleadings for an improper purpose. Plaintiff's deposition testimony shows that RLO  
5 manufactured a case against Carma Labs before it had a plaintiff. Then, RLO's  
6 personnel discussed its already-existing case with Mr. Turcios (RLO's legal  
7 secretary's boyfriend) to solicit his involvement as a plaintiff even though Mr. Turcios  
8 testified that he never had any problems or complaints with Carma Labs' 0.25 oz  
9 Carmex product until RLO's personnel told him about RLO's "case" against Carma  
10 Labs and informed him that Carma Labs was "ripping people off." RLO's counsel  
11 then drafted and filed a complaint against Carma Labs without ever communicating  
12 with Plaintiff or having Plaintiff review the complaint. Plaintiff, in fact, did not  
13 review the Complaint or Amended Complaint until just days before his deposition. This  
14 behavior merits Rule 11 sanctions. *Bodner v. Oreck Direct, LLC*, No. C 06-4756,  
15 2007 WL 1223777, at \*3 (N.D. Cal. April 25, 2007) (counsel's practices were  
16 abhorrent when the plaintiff was solicited by the law firm, met with his attorney for  
17 the first time just prior to his deposition, did not read the complaint before it was filed,  
18 and his knowledge of the lawsuit came mostly from his attorney).

19 Plaintiff's deposition testimony also shows numerous material factual  
20 allegations in the Complaint and Amended Complaint are frivolous, including that: (1)  
21 Plaintiff was deceived by Carma Labs' packaging; (2) Plaintiff relied on the  
22 packaging when purchasing Carmex; (3) Plaintiff was harmed by Carma Labs'  
23 packaging; and (4) Plaintiff's claims and interests are aligned with the claims and  
24 interests of the proposed putative class. To the contrary, Plaintiff testified that he  
25 knew about the indentation on the bottom of the Carmex 0.25 oz jar right away and  
26 did not care about the packaging when he bought the product. Plaintiff also testified  
27 that he was satisfied with the product, would be happy if the jars contained 0.25 oz of  
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1 product (the parties do not dispute that the jars contain at least 0.25 oz), and would  
2 perhaps purchase it again. All of these statements show RLO's purported factual  
3 allegations in the Complaint are frivolous and lack evidentiary support.

4 Further, Plaintiff's deposition testimony shows that Plaintiff's true allegations  
5 about Carma Labs' packaging are wholly different from the allegations RLO asserted  
6 in the Complaint and Amended Complaint. Namely, Plaintiff understood that the 0.25  
7 oz Carmex jar at issue stated that it contains 0.25 oz of product, but Plaintiff believes  
8 (because RLO's personnel told him falsely) that the jar holds less than 0.25 oz of  
9 product. Plaintiff's position contradicts the core allegations in Plaintiff's pleadings,  
10 which assert that the jar is deceptive because of non-functional slack fill and a false  
11 bottom. Basic factual inquiry would have brought this material inconsistency to light.

12 In short, RLO improperly manufactured a case before it had a plaintiff and  
13 failed to investigate key allegations in its pleadings before filing. Accordingly, RLO  
14 filed the pleadings for an improper purpose and without evidentiary support. In light  
15 of the foregoing,

16 IT IS HEREBY ORDERED THAT

17 (1) Carma Labs' Motion for Rule 11 Sanctions against Ridout Lyon +  
18 Ottoson LLP is hereby GRANTED;

19 (2) Plaintiff's action is hereby DISMISSED with prejudice and Plaintiff  
20 takes nothing by way of this action;

21 (3) Ridout Lyon + Ottoson LLP is ORDERED to pay the reasonable  
22 attorneys' fees and other expenses directly resulting from their violation of Rule  
23 11; and

24 (4) Ridout Lyon + Ottoson is ORDERED to pay Defendant's reasonable  
25 attorneys' fees and other expenses associated with bringing its Motion for Rule  
26 11 Sanctions.

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2 IT IS SO ORDERED.  
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5 Dated: \_\_\_\_\_

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6 Hon. Jesus G. Bernal  
7 United States District Judge  
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